

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

May 10, 1999

ENERGY ATLANTIC, LLC  
Application for License to Operate as a  
Competitive Electricity Provider

Docket No. 99-237

PUBLIC UTILITIES COMMISSION  
Registration of Electric Retailers  
to Market Retail Electric Power

Docket No. 97-400

ORDER GRANTING LICENSE  
AND TERMINATING  
REGISTRATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

In this Order, we license Energy Atlantic, LLC to operate as a competitive electricity provider in Maine pursuant to Chapter 305 of the Commission's Rules.

**II. APPLICATION**

On April 13, 1999, Energy Atlantic, LLC applied to the Commission for a license to operate in Maine as a competitive electricity provider, as provided in Chapter 305, which became effective on February 8, 1999.

A. Application Sufficient

The Administrative Director determined that Energy Atlantic, LLC's application was complete and sufficient to meet the filing requirements of Chapter 305, and docketed the application in this proceeding on April 14, 1999.

B. Type of Service Proposed

Energy Atlantic, LLC proposes to sell electric service to the public at retail as a competitive electricity provider. Energy Atlantic, LLC's application states that the proposed licensee plans to market electricity at retail to residential, commercial, and industrial customer classes in all transmission and distribution electric utility service territories in Maine.

C. Fee Paid

With its application, Energy Atlantic, LLC paid a \$100 fee to the Commission, as required by section 2(C)(5) of Chapter 305.

**III. FINANCIAL ISSUES**

A. Security

Section 2(B)(1)(a)(i) of Chapter 305 states that "a license will not be issued or remain in force until the applicant or licensee furnishes a surety bond or letter of credit" meeting requirements of that rule. The initial security level is set by section 2(B)(1)(a)(ii) as \$100,000.

Energy Atlantic, LLC has furnished a surety bond in the amount of \$100,000 as its security instrument, with supporting materials as required by section 2(B)(1)(a)(iv) of Chapter 305. We have reviewed that instrument and find that it conforms to the requirements of Chapter 305.

B. Showing of Financial Capability

We find that the security instrument provided by Energy Atlantic, LLC as described above demonstrates that Energy Atlantic, LLC has financial capability to engage in its proposed business as a competitive electricity provider in Maine.

**IV. TECHNICAL ISSUES**

A. Showing of Technical Capability

Energy Atlantic, LLC, as a competitive electricity provider in Maine, must demonstrate it has the technical ability to enter necessary interconnection arrangements or contracts with Maine utilities, pursuant to section 2(B)(2)(a) of Chapter 305. In its application, Energy Atlantic, LLC provided information demonstrating its

ability to enter into such arrangements or contracts, although it stated it had not yet reached such agreements. Accordingly, Energy Atlantic, LLC shall not act to enroll customers or provide generation service until all required contracts have been executed consistent with Commission rules. Energy Atlantic, LLC shall notify the Commission when all such contracts have been executed.

Section 2(B)(2)(b) of Chapter 305 requires an applicant to demonstrate that it has the technical ability to secure generation or otherwise obtain and deliver electricity meeting all applicable requirements for the bulk power system control area in which the applicant would provide service. Energy Atlantic, LLC filed supporting information to demonstrate its technical capability to meet that requirement within the Northeast Power Coordinating Council control area. We have reviewed that information and find that it complies with the requirements of Chapter 305. Energy Atlantic, LLC also documented that it will meet the NEPOOL transaction provisions required by section 2(B)(2)(b)(ii) of Chapter 305.

**B. Renewable Resource Portfolio**

Energy Atlantic, LLC, as a competitive electricity provider in Maine, pursuant to section 2(B)(4) of Chapter 305, must demonstrate its ability to meet the renewable resource portfolio requirement of 35-A M.R.S.A. § 3210 and the portfolio requirement reporting rules in Chapter 311 of the Commission's rules. Energy Atlantic, LLC filed information to demonstrate its ability to meet these requirements. We have reviewed that information and find that it complies with the requirements of Chapter 305.

**V. CONSUMER PROTECTION ISSUES**

**A. Showing of Fitness**

In its application, Energy Atlantic, LLC provided information required by Chapter 305 section 2(B)(3) related to enforcement proceedings and customer complaints. We have reviewed that information and find that it meets the requirements of Chapter 305.

**B. Ability to Comply with Consumer Protection Rules**

Energy Atlantic, LLC provided information demonstrating its ability to comply with the applicable consumer protection requirements of Chapter 305 and other consumer protection requirements pursuant to 35-A M.R.S.A. Chapter 32 and other relevant provisions of Maine law. We have reviewed that information and find that it meets the requirements of Chapter 305.

C. Do-Not-Call List

Chapter 305 section 4(I) states that “[t]he Commission will maintain or cause to be maintained a ‘Do-Not-Call’ list of customers who have requested -- orally, in writing, or by commercially accepted electronic means -- that they not receive telemarketing calls from competitive electricity providers.” We require that licensees use do-not-call list mechanisms already in place nationally to satisfy that requirement. To the extent that it telemarkets to Maine consumers, Energy Atlantic, LLC shall comply with the following requirements.

Energy Atlantic, LLC must comply with the requirements of the Telephone Consumer Protection Act,<sup>1</sup> the Telemarketing and Consumer Fraud and Abuse Prevention Act,<sup>2</sup> and related rules of the Federal Communications Commission<sup>3</sup> and Federal Trade Commission.<sup>4</sup> Energy Atlantic, LLC must comply with those requirements and must maintain its own do-not-call list as required by those laws and rules, for all intrastate and interstate telemarketing of Maine consumers, including both residential and business customers. Energy Atlantic, LLC shall not telemarket to Maine customers on that list, as required in Chapter 305 section 4(I)(1). Energy Atlantic, LLC shall update its do-not-call list at least monthly, and maintain copies of that list for at least six months. Energy Atlantic, LLC shall provide a copy of that list to the Commission upon request.

Further, each month, Energy Atlantic, LLC must obtain listings of Maine consumers who have arranged to be included on the do-not-call list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc.<sup>5</sup> Energy Atlantic, LLC shall not telemarket to Maine customers on that list, as required in Chapter 305 section 4(I)(1).

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<sup>1</sup>47 U.S.C. § 227

<sup>2</sup>15 U.S.C. §§ 6101-6108

<sup>3</sup>47 CFR 64.1200

<sup>4</sup>FTC Telemarketing Sales Rule, 16 CFR Part 310

<sup>5</sup>Telephone Preference Service, Direct Marketing Association, Inc., P.O. Box 9014, Farmingdale, NY 11735-9014

## **VI. ADDITIONAL PROVISIONS**

Energy Atlantic, LLC must comply with all applicable requirements and limitations in Chapter 305 not explicitly waived in this Order. Energy Atlantic, LLC must also comply with all requirements and limitations in other applicable Commission rules, including any applicable future changes in Maine laws and Commission rules, and in other parts of this Order.

## **VII. REGISTRATION**

On November 5, 1998, Energy Atlantic, LLC registered with the Commission to market retail electric service pursuant to 35-A M.R.S.A. § 3142, in Docket No. 97-400. The license we grant in this Order supersedes that registration. Any contracts for retail electric service entered into by Energy Atlantic, LLC after June 10, 1997 and before the date of Energy Atlantic, LLC's registration are void, as provided in 35-A M.R.S.A. § 3142(3) and (3-A). Contracts for retail electric service entered into by Energy Atlantic, LLC on or after the date of Energy Atlantic, LLC's registration (November 5, 1998), and on or before the date of this Order, are not void if they comply with the requirements of Chapter 305 and the license granted by this Order.

## **VIII. ORDERING PARAGRAPHS**

Accordingly, we

1. license Energy Atlantic, LLC to operate as a competitive electricity provider in Maine, pursuant to Chapter 305 of the Commission's Rules;
2. order Energy Atlantic, LLC to comply with all Do-Not-Call List requirements contained in Part V(C) of this Order to the extent that it telemarkets to Maine consumers; and
3. order that this license is effective on the date of this Order, and that it shall be valid until revoked by the Commission pursuant to section 3(A)(4) of Chapter 305, or abandoned by the licensee pursuant to sections 2(C)(9) and 2(C)(11) of Chapter 305 of the Commission's Rules.

Dated at Augusta, Maine this 10th day of May 1999.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.